

respectfully submitted that the Restriction Requirement is not appropriate and should be withdrawn. To require an election between claims directed to a product and claims directed to a process of using the product, the Examiner must show: (1) that the process of using as claimed can be practiced with another materially different product; or (2) that the product as claimed can be used in a materially different process. In support of requiring election, the Examiner states that other products, e.g., statins, can be used in a method of reducing total serum cholesterol and serum LDL cholesterol and raising serum HDL cholesterol in a human. However, Claim 34 specifically requires the use of the edible oil (of claim 1) to reduce serum cholesterol and serum LDL cholesterol and to raise serum HDL cholesterol. Accordingly, the method of using the product (as claimed in Claims 34-48) is limited to the product of claim 1. No restriction should be required.

Applicant's position is supported by the Examiner handling the parent application of the present application. In U.S. Serial No. 09/411,591 (the parent application of which the present application is a divisional) Examiner Carolyn Paden issued an Election Restriction dated September 14, 2000. Examiner Paden identified two distinct inventions in the application:

- I. Claims 1-23 and 34-49; and
- II. Claims 24-33 and 49-51.

In response to the Election Restriction of September 14, 2000, Applicant elected Claims 24-33 and 49-51 which proceeded to issuance as U.S. Patent No. 6,277,431 B1. The present application was filed to prosecute the claims directed to the non-elected invention identified by Examiner Paden, namely, Claims 1-23 and 34-49. It is respectfully submitted that Examiner Paden's original identification of the distinct inventions in the application was correct. As such, Applicant requests reconsideration and withdrawal of the pending election requirement.

Serial No. 09/783,884

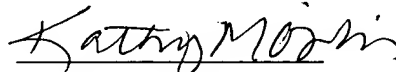
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Should there be any questions regarding this application, Examiner Jiang is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

January 22, 2002

Date



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